

**ST. GEORGE CITY COUNCIL MINUTES  
REGULAR MEETING  
JUNE 25, 2015, 4:00 P.M.  
CITY COUNCIL CHAMBERS**

**PRESENT:**

**Mayor Jon Pike  
Councilmember Jimmie Hughes  
Councilmember Michele Randall  
Councilmember Joe Bowcutt  
Councilmember Bette Arial  
City Manager Gary Esplin  
City Attorney Shawn Guzman  
City Recorder Christina Fernandez**

**EXCUSED:**

**Councilmember Gil Almquist**

**OPENING:**

Mayor Pike called the meeting to order and welcomed all in attendance. The Pledge of Allegiance to the Flag was led by Administrative Services Director Deanna Brklacich and the invocation was offered by Reverend Alex Wilkie.

Prior to the start of the meeting, City Recorder Christina Fernandez provided the City's documents to the Mayor, Councilmembers and Attorney Aaron Prsbrey.

**HEARING FOR AN EMPLOYEE APPEAL ON A DEMOTION WHICH INCLUDED A REDUCTION IN ANNUAL SALARY:**

Mayor Pike mentioned that one hour is allocated for Attorney Aaron Prsbrey and the same for City Attorney Shawn Guzman with one half hour for the Council to deliberate.

Aaron Prsbrey, attorney for Michael Jewell, explained that he did not know there was a time limit. With the number of witnesses he has, he is not in the position to adhere to the one hour.

City Attorney Shawn Guzman stated that the time limit is acceptable.

Mayor Pike explained that per policy, the Council is referred to as a board.

**MOTION:** A motion was made by Councilmember Hughes to set the time limit to one hour for each side.

**SECOND:** The motion was seconded by Councilmember Randall.

**VOTE:** Mayor Pike called for a vote, as follows:

Councilmember Hughes – aye  
Councilmember Randall – aye

Councilmember Bowcutt – aye  
Councilmember Arial – aye

The vote was unanimous and the motion carried.

Deputy City Attorney Paula Houston explained that this is a hearing for an employee appeal on a demotion which included a reduction in annual salary. The Council's decision will be to either affirm or overturn the decision of the City Manager. Referring to a question asked by Councilmember Hughes, she explained that the recommendation came from the Department Head to City Manager to make a determination.

City Attorney Shawn Guzman asked Councilmember Hughes to clarify if he was asking if it was the City Manager's or Department Head's recommendation to demote Mr. Jewell.

Councilmember Hughes clarified that he was asking who made the decision to demote Mr. Jewell.

City Attorney Shawn Guzman clarified the process. In this case, the Department Head recommended to the City Manager that Mr. Jewell be terminated. The City

Manager agreed with the termination; however, after Mr. Jewell's appeal to the City Manager, he made the decision to demote the employee instead.

Councilmember Bowcutt asked what happens if the Council does not approve the City Manager's recommendation.

Deputy City Attorney Paula Houston explained that if the Council does not agree with the decision made by the City Manager, the employee would be reinstated to his position as Parks Supervisor Support Services.

Mr. Prisbrey began his case at 4:30. He asked that the witnesses be excluded per the exclusionary rule.

Deputy City Attorney Paula Houston stated City policy specifically states that those rules do not apply to administrative hearings.

Mayor Pike asked City Attorney Shawn Guzman if he is okay with Mr. Prisbrey's request to exclude the witnesses.

City Attorney Shawn Guzman stated that although he agrees that rules of evidenced do not apply here, he has no objection to excluding witnesses for testimony. He requested that Assistant Parks Manager Cody Schmitt, Leisure Services Director Kent Perkins, Parks Manager Larry Shane, City Manager Gary Esplin and Human Resources Director remain in the council chambers as they are clients in this matter.

Mr. Prisbrey had no objections to Mr. Guzman's request.

Councilmember Bowcutt commented that doing this, bringing people in and out will take time. He believes it should still count for the hour time limit.

Councilmember Hughes asked what the point is for removing them.

Deputy City Attorney Paula Houston explained the theory behind the exclusionary rule. It is not required.

**MOTION:** A motion was made by Councilmember Hughes to exclude those that were not mentioned by City Attorney Shawn Guzman, removing them from the room until they are called.

**SECOND:** The motion was seconded by Councilmember Arial.

**VOTE:** Mayor Pike called for a vote, as follows:

Councilmember Hughes – aye  
Councilmember Randall – aye  
Councilmember Bowcutt – nay  
Councilmember Arial – aye

The motion carried.

The witnesses left the meeting.

City Attorney Shawn Guzman asked if Mr. Prisbrey is going to make an opening statement.

Mr. Prisbrey stated that he has a preliminary issue.

City Attorney Shawn Guzman noted that the City would like to make a short opening statement; therefore he asked that the time limit start. He then asked if the opening statement would be counted toward the one hour time limit. Additionally, he asked if the time will be counted separately.

Mr. Prisbrey provided Exhibit 1 and referred to page 2 paragraph 7, UCA 10-36-1106 which says that the procedure for conducting an appeal and the standard of review shall be prescribed by the governing body of each municipality by ordinance. He then referred to City Code 2-2-1, which is silent as to the procedure that is going to be used in this hearing. HR policy 4.50 is where the procedures for this hearing are coming from; the rules have not been set by ordinance. He asked who has the burden of proof. The policy says that he has the burden of proof; however, that is not what the ordinance states. He asked which standard will be used for the standard of review on the appeal. It is inappropriate for the City and the Executive Branch saying that they have the burden of proof; it should rest with the City.

Mr. Hughes asked if Mr. Prisbrey disagrees with the procedure and how long he has had the question about the standard.

Mr. Prisbrey stated that he does not agree with the procedure and spoke with City Attorney Shawn Guzman several times who told him the HR policy will be used. He told City Attorney Shawn Guzman that it is unacceptable to follow the HR policy.

City Attorney Shawn Guzman stated he was never told that it was unacceptable. He and Mr. Prisbrey had phone conversations in which Mr. Prisbrey spoke about having additional witnesses and that he did not agree with the burden of proof.

Currently, City Policy states that the burden of proof is on the appellant which is not abnormal. The Council's action will be reviewed for reasonableness. This is an internal procedure for the City. The City's position is that Mr. Jewell was offered another position, a demotion. Mr. Jewell was given additional time and decided to resign, requesting to be paid out all of his accrued time, including a percentage of his sick leave, which is not paid out unless you have worked for the City for 20 years. The City took an extra step in the due process in having the hearing tonight. Rather than taking the position and appealing the demotion, Mr. Jewell resigned. He explained that the City cannot compel witnesses. When he explained that to Mr. Prisbrey, he asked if Mr. Prisbrey would need more time to find additional witnesses.

Mr. Prisbrey explained there was a recommendation from the Department Head to terminate Mr. Jewell. City Manager Gary Esplin assigned him to a different position with a reduction in pay. Mr. Jewell was given approximately 48 hours to take the position or he would be deemed to no longer be a City employee. He did not accept the offer within the 48 hours. He stated that he does not understand where City Attorney Shawn Guzman is in a position to give the Council advice as he does on a routine basis. Is he arguing as a litigant to this case? The only way the City can set the protocol in the standard of review to be used in this hearing is by ordinance. That has not been done by ordinance; it has been done by the Human Resources Department.

Councilmember Hughes asked City Attorney Shawn Guzman if all of the City's policies and procedures are in ordinance form.

City Attorney Shawn Guzman explained that policies and procedures are not in ordinance form. He looked at state code and did not see anything that changes the burden of proof. While he is here making arguments on the side of the City, he will leave it up to Deputy City Attorney Paula Houston to opine on what the review standard would be and on all points that Mr. Prisbrey brought up. He disputes that Mr. Jewell had 48 hours to decide if he wanted to take the job offered to him. There was a request for more time for Mr. Jewell to make a decision and it was granted. In the end, Mr. Jewell resigned by requesting to be paid out all of his accrued time. If he continued to work for the city, he would have the same opportunity to appeal the demotion.

Deputy City Attorney Paula Houston explained that her role is to give the board legal advice, not to argue the case. It is appropriate for both parties to make their statement on what they believe is the position of the law. The hearing should continue and the board should make their decision as they deem appropriate.

Mayor Pike commented that the hearing will move forward based on City policy.

Mr. Prisbrey called City Manager Gary Esplin. He asked if there is someone that will swear him in.

Deputy City Attorney Paula Houston explained that it has not been the City's practice to swear in witnesses for a hearing.

Mr. Prisbrey stated that stature requires the creation of an appellate record. He asked how that will be done if witnesses are not sworn in.

Deputy City Attorney Paula Houston explained that a record is being created. A court reporter is present. A witness does not have to be sworn in to make a record. She asked if City Attorney Shawn Guzman has an objection.

City Attorney Shawn Guzman noted that it is not his decision on what to do. He objected because Mr. Prisbrey proved a list of 10 witnesses. City Manager Gary Esplin is not on that list.

Mr. Prisbrey stated it should not make a difference. Every court has rules of evidence. Rules of civil procedure indicate that any individual who is present in the courtroom can be called to testify as a witness.

City Attorney Shawn Guzman disagreed. Attorneys exchange witness lists all the time. Court rules are not being followed here. He contacted Mr. Prisbrey and to let him know if additional witnesses would be called. At that time, he provided a witness list to Mr. Prisbrey; they exchanged witness lists there. Mr. Esplin is on the list as a witness for the City; therefore it is up to the City if he is called or not.

Councilmember Hughes asked if Mr. Prisbrey and his client would rather not be going through this process.

Mr. Prisbrey clarified that he feels it is inappropriate to go forward with rules that were drafted by the City Attorney's office, not the City Council.

Mayor Pike asked how the Council wanted to proceed. He then asked if they have any objections to allowing Mr. Prisbrey to call on City Manager Gary Esplin even though he is not on his witness list.

Deputy City Attorney Paula Houston explained that the policy allows for Council to require a prehearing outline; however, it was not required in this case. Rather, the attorneys exchanged witness lists. Policy does not address whether or not they are limited by the lists, it would be up to the Council.

City Attorney Shawn Guzman stated that the City listed City Manager Gary Esplin as one of its witnesses. He is concerned that there will be additional witnesses called that are not on Mr. Prisbrey's list.

Mayor Pike asked Deputy City Attorney Paula Houston if the opposing counsel will have the opportunity to cross examine a witness.

Deputy City Attorney Paula Houston replied yes.

Mayor Pike asked if the hearing can continue sticking to the witness lists as provided by each attorney and use the cross examination opportunity.

**MOTION:** A motion was made by Councilmember Hughes to continue with the witness lists as provided by each attorney and use the cross examination opportunity.

**SECOND:** The motion was seconded by Councilmember Randall.

**VOTE:** Mayor Pike called for a vote, as follows:

Councilmember Hughes – aye  
Councilmember Randall – aye  
Councilmember Bowcutt – aye  
Councilmember Arial – aye

The vote is unanimous and the motion carried.

Mr. Prisbrey asked to clarify that he can only question City Manager Gary Esplin during cross examination. What if City Attorney Shawn Guzman does not call him?

Mayor Pike stated that is correct.

Mr. Prisbrey noted that he was told by City Attorney Shawn Guzman if there were any witnesses who work for the City, he would make every attempt to get them to the hearing. He explained that the reason you object to a witness is because they are a surprise. If City Attorney Shawn Guzman does not call him, he cannot cross examine him. As the City had him on their list, they are not surprised. There is no rule that requires him to provide a list.

City Attorney Shawn Guzman read portions of a letter from Mr. Prisbrey dated June 19<sup>th</sup>. As he has stated previously, his only concern is that there will be other witnesses who are not on Mr. Prisbrey's list as they cannot be compelled to testify. He concern is not that Mr. Esplin will testify, rather that there will be other witnesses. Mr. Esplin will testify.

Councilmember Hughes asked Mr. Prisbrey if he plans on calling any other witnesses that are not on his list.

Mr. Prisbrey explained that every witness he plans to call is either on his list or the City's.

**MOTION:** A motion was made by Councilmember Hughes to allow either side to call a witness for them any of the witnesses on either list.  
**SECOND:** The motion was seconded by Councilmember Randall.  
**VOTE:** Mayor Pike called for a vote, as follows:

Councilmember Hughes – aye  
Councilmember Randall – aye  
Councilmember Bowcutt – aye  
Councilmember Arial – aye

The vote is unanimous and the motion carried.

Mr. Prisbrey called City Manager Gary Esplin.

City Manager Gary Esplin testified that all employees, except for Department Heads and appointed employees are subordinate to him. The issues with Mr. Jewell's performance came to his attention by the normal process followed through Human Resources. Employees submitted letters, performance issues were brought up by the department, employees, supervisors and Parks Manager Larry Shane. At that time

the Human Resources Director called the employee and his supervisor. There was a pre-determination hearing to look at the information that was brought up. He approved their recommendation for termination; however, Mr. Jewell appealed the decision. After looking at the evidence that was submitted and speaking to some of the witnesses, he decided to give Mr. Jewell an opportunity to stay with the City in a different position. At the appeal hearing, Mr. Jewell who worked for the City for 22 1/2 years, indicated that he wanted to stay until he had 25 years in, if there was a position available where he could provide services outside, but not as a supervisor. Regarding the letter dated April 23, 2015 included in the agenda packet, the information he was referring to were letters received from the concerned employees. Additionally, he spoke with Kent Perkins, Larry Shane, David Oxendine, Cody Schmitt and Judith Mayfield. Performance evaluations did not come into consideration at this time as they are done in November. He explained that performance scales are made up of different factors. The last evaluation would have been done in November of 2014. He is not disputing that that evaluation indicated that Mr. Jewell was proficient; however, his decision was based upon the information received from employees and the fact that Mr. Jewell was on a performance evaluation plan for some of the same issues. His decision was also based upon the way he treats his employees, how he schedules his work and performance related issues that deal with him in his job as a supervisor. Those issues include insubordination, changing instructions given by his supervisor and others he does not recall.

Mr. Prisbrey had no further questions.

City Attorney Shawn Guzman stated that he reserves the right call City Manager Gary Esplin when the City presents its case. He then cross examined him.

City Manager Gary Esplin testified that he did review Mr. Jewell's recent performance improvement plan evaluation; however, his decision was not based upon that. He met with Human Resources Manager Judith Mayfield and Leisure Services Director Kent Perkins, as well as, Parks Manager Larry Shane and Assistant Parks Manager Cody Schmitt because he wanted to get as much information as he could to make the correct decision. They discussed Mr. Jewell's past performance. Additionally, the information he reviewed when making his decision included letters from parks employees David Oxendine and Bobby Randall.

City Attorney Shawn Guzman had no further questions.

Mr. Prisbrey had an additional question.

City Manager Gary Esplin explained that the performance improvement plan process. He testified that Mr. Jewell came off the plan; however, the issues brought up by those individuals were current and still existing issues. The improvement plan did not work and the situation deteriorated to the point that it could not continue. He stated that the letters received from Mr. Oxendine and Mr. Randall were two of the main issues when making his decision.

City Attorney Shawn Guzman had additional questions.

City Manager Gary Esplin testified that Mr. Jewell's treatment of employees and co-workers was his concern. He tried to take all of the information received from all involved, including Mr. Jewell, and make the best possible decision for the employees,

the City and Mr. Jewell. Another option could have been to put Mr. Jewell on another performance improvement plan, but it did not work the first time. While considering his decision, he had information provided by several individuals including comments from Mr. Jewell during his appeal hearing. He took all of the information and tried to make the best possible decision for the employees as well as Mr. Jewell by offering him another position.

City Attorney Shawn Guzman had no further questions.

Mr. Prisbrey had an additional question.

City Manager Gary Esplin testified that he believed the information received from Mr. Schmitt, Mr. Oxendine and Mr. Randall was truthful.

Mr. Prisbrey had no further questions. He then called David Oxendine and provided Exhibits 2 and 3.

City Attorney Shawn Guzman objected to the summary prepared by Mr. Prisbrey as the evaluations were provided in the City's packet. There is no way to evaluate whether the summary is truthful or not.

David Oxendine arrived.

Mr. Oxendine testified that he has worked in the St. George Parks Department for approximately 4 1/2 years and is currently on the tech crew. He has known Mr. Jewell for approximately 20 years and has no personal feelings against him.

Mr. Prisbrey provided Exhibit 8.

Mr. Oxendine testified that he wrote the email from his home computer. No one told him to write it. He explained a situation that occurred at Tonaquint Cemetery while he was digging there with Mr. Jewell and Mr. Randall as mentioned in Exhibit 8. Additionally, he mentioned another issue that occurred at Art Around the Corner. He explained that he is aware of the City's harassment policy. Previously, he worked for the City for six years. He then explained situations that occurred while working at Worthen Park and another instance while digging at Tonaquint Cemetery. Although he knows that issues should be reported within 24 hours, he did not report the issues until he and Mr. Randall finally had enough of Mr. Jewell. Mr. Jewell has always been difficult to get along with. He knew of personality issues between Mr. Shane and Mr. Jewell. At one time, he joked about eating dinner with Mr. Shane often. It was funny because Mr. Jewell could not stand Mr. Shane. He is aware of the City's open door policy for reporting harassment; he sent a letter to the Human Resources Director approximately two years ago. During a meeting he attended in 2013, Mr. Shane asked to let him know if he was having problems with Mr. Jewell. It did not seem like Mr. Shane was trying to get information he could use against Mr. Jewell. He told Mr. Shane that everything was good because Mr. Jewell had calmed down a bit. This was after the letter submitted to the Human Resources Director. It did not seem like Mr. Shane was hunting for information he could use against Mr. Shane. Mr. Shane has not given him any special privileges. He testified that he lives in a home owned by the City and that he takes care of the landscape. His wife talked with someone at the City and was told about a program; she contacted Housing & Development Director Matt Loo. That had nothing to do with Mr. Shane. He then explained a situation in which Mr. Jewell got after him for grinding sparks in front of kids while at Main Street



Plaza. The kids he saw were approximately 50 yards away with his mom, standing by picnic tables. The way Mr. Jewell went about it angered him.

Mr. Prisbrey provided Exhibit 6.

Mayor Pike noted that Mr. Prisbrey is almost at one hour.

City Attorney Shawn Guzman asked for clarification as there is a discrepancy on the exhibits provided by Mr. Prisbrey. He asked if Deputy City Attorney Paula Houston is keeping track of them.

Mr. Prisbrey stated that his exhibits are not in order because he was notified that he only has one hour; there are some that he will skip.

City Recorder Christina Fernandez stated that she has the exhibits listed in the minutes.

City Attorney Shawn Guzman requested the Deputy City Attorney Paula Houston keep track of them.

Mr. Prisbrey continued.

Mr. Oxendine testified, pertaining to the photos in Exhibit 6, he can see his truck and he is not sure if that is Mr. Randall with him. While he can see the woman and small child walking near them in the photo, he does not remember them walking past him while he was grinding, but it is reasonable to assume that she did. He would expect to be reprimanded if his supervisor saw him grinding sparks onto the mother and young child. He testified that Mr. Jewell may have put the follower kit on the PVC pipe at Tonaquint Cemetery; he cannot remember and identified Mr. Jewell in another one. In the past, they have used a backhoe to move statues with no problems. He explained an incident that took place at Town Square. They were preparing to pour concrete and Mr. Schmitt told them to remove over 10 inches of clay; Mr. Jewell told them to only remove 6 inches. In the meeting with City Manager Gary Esplin, he told him that there was no way he could compact the wet clay and pour concrete. It was his opinion that the concrete was going to fail and did not want to be associated with that job. When pouring concrete, you should never pour over clay. You try to remove as much clay as you can because it is going to shrink and expand, making the concrete crack. He explained that they put mesh down at Little Valley, but because it was the wrong one, they had to put the correct one on top.

City Attorney Shawn Guzman stated that he is concerned with the time frame. It appears that Mr. Prisbrey has run out of time and he does not see the relevance in this line of questioning.

Mayor Pike agreed and asked if the Council if they wanted to grant additional time.

Councilmember Randall asked Mr. Prisbrey how many witness he has.

Mr. Prisbrey advised that he has no other questions for Mr. Oxendine. He plans to call Bobby Randall, Larry Shane and Cody Schmitt.

Councilmember Randall commented that she thinks they need to allow the witnesses to be heard so that Mr. Jewell gets a fair process.

Mayor Pike stated that this could take all night. The line of questioning is not helping the Council. Under City ordinance, it is a hearing, not a court of law.

Councilmember Arial stated that she wanted to keep to the hour time limit.

Councilmember Randall commented that she hasn't learned anything.

Councilmember Bowcutt commented that they seem to be laying groundwork but not asking questions that pertain to the decision they have to make tonight.

Councilmember Hughes asked Mr. Prisbrey to get to specific points. He suggested giving an additional 15 minutes to get to the "meat". He wants to know what happened.

Mr. Prisbrey stated that part of the problem is with whoever decided it would be a good thing for the Council to hear this.

**MOTION:** A motion was made by Councilmember Hughes to allow 15 more minutes for both sides.

**SECOND:** The motion was seconded by Councilmember Arial.

Councilmember Bowcutt said to give each side 15 minutes, move on and get the answers.

Mr. Prisbrey asked if he can ask leading questions to try to move things along.

Councilmember Hughes told Mr. Prisbrey not to lead them around in a circle, just ask the questions.

Mayor Pike recognized that Mr. Prisbrey has already gone 15 minutes over; therefore, City Attorney Shawn Guzman would then have 1 1/2 hours to present his case.

**VOTE:** Mayor Pike called for a vote, as follows:

Councilmember Hughes – aye  
Councilmember Randall – aye  
Councilmember Bowcutt – aye  
Councilmember Arial – aye

The vote is unanimous and the motion carried.

The time is 5:57 p.m.

City Attorney Shawn Guzman advised that he has refrained from objecting to what he feels are leading questions as this is a hearing and they are not bound by the rules of evidence; however, he objects that things are getting far from what is relevant.

Mr. Prisbrey continued.

Mr. Oxendine testified that he did not lie when providing information to City Manager Gary Esplin; backhoes are used to move statues. Whether or not it is safe depends

on where you are moving the statue to. Further, he did not lie when he said that Mr. Jewell was not working in the trenches at Tonaquint Cemetery. When he needed a spotter, Mr. Jewell would not get in the ditch.

Mr. Prisbrey had no further questions. He asked if the cross counts on his 15 minutes.

Mayor Pike replied yes and his cross will count towards City Attorney Shawn Guzman's time as well.

City Attorney Shawn Guzman cross examined Mr. Oxendine.

Mr. Oxendine testified that the statue at the Main Street and Diagonal round-a-bout was loaded into a pickup truck using a backhoe. In his letter, he talked about moving a statue during Art Around the Corner. That statue was moved about two blocks away. When Mr. Jewell saw the trailer in place, he said that he did not need a trailer and jumped on the backhoe, saying that he would just take the statue down the road as he can have it down the road quicker than putting it on the trailer. Mr. Jewell talked to him in an angry manner, raising his voice. Although there were straps on the statue, it could swing back and forth. Mr. Jewell decided to have the employee walk behind the statue to steady it, in the middle of the street, which he did not agree with. He felt that was unsafe because the straps could have broken and there were cars present; he was afraid that employee could be injured. At City Attorney Shawn Guzman's request, Mr. Oxendine stood up and demonstrated how the employee steadied the statue as he observed it being moved. He stated that he worked with Mr. Jewell when he was previously employed by the City. After speaking with his wife, he decided to apply because he thought Mr. Jewell's demeanor and attitude may have changed in the eight years that he had been gone. He had concerns with Mr. Jewell's treatment when he worked for the City previously. This time is worse; you cannot ask Mr. Jewell a question without him jumping down your throat. While installing rock at Hela Seegmiller Farm, Leisure Services Kent Perkins overheard him use the "f" word. He did not hear Mr. Perkins address the situation. Regarding the issue at Tonaquint Cemetery, the crew was told by Mr. Schmitt to dig down 10 inches; however, Mr. Jewell told them to only take out 6 inches because "Cody doesn't know shit". Regarding the issue at Town Square, he was concerned that Mr. Jewell had instructed them to only dig 6 inches when they were told to dig further. Without Mr. Jewell knowing, he tried to call Mr. Schmitt, but there was no answer. He did not let Mr. Jewell know because in his opinion, he would have been angry for going above his head as he has done in the past. Mr. Jewell talks to them in a rude manner, gets mad when they ask questions, and hangs up on them.

Mr. Prisbrey noted that he only has 15 minutes remaining. He stated that City Attorney Shawn Guzman is going over ground that has already been covered.

City Attorney Shawn Guzman stated that he does not believe he is going over things that have already been covered. In the interest of time, since he plans on calling Mr. Oxendine as a witness; therefore he will save his questions and reserved the right to call Mr. Oxendine.

Mr. Prisbrey redirected.

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Mr. Oxendine testified that he did not know if Blue Stake was called when they dug the 10 inches. When moving the statue, he did not know if encroachment permits were obtained; however, they did have signs present.

Mr. Prisbrey called Mr. Randall noting that his 15 minutes are up.

Mayor Pike suggested, due to time constraints, that the Council make a motion to allow another 15 minutes then take a recess and reconvene at 7:00 p.m. He advised that the case cannot be discussed during the recess.

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**MOTION:** A motion was made by Councilmember Randall to allow 15 more minutes, then recess and return at 7:00 p.m.

**SECOND:** The motion was seconded by Councilmember Hughes.

**VOTE:** Mayor Pike called for a vote, as follows:

Councilmember Hughes – aye  
Councilmember Randall – aye  
Councilmember Bowcutt – aye  
Councilmember Arial – aye

The vote is unanimous and the motion carried.

The time is 6:16 p.m.

Mr. Prisbrey called Bobby Randall.

Robert (Bobby) Randall testified that he has worked for the City for 3 1/2 years; Mr. Jewell is his supervisor. In the past, he has reported issues with Mr. Jewell to the Human Resources Department. The issues he addressed were Mr. Jewell's demeanor and a situation he was concerned about where he felt Mr. Jewell threatened him. He mentioned an occurrence that took place when the City switched phone companies. At that time, Mr. Jewell told him that he better watch his back and that he didn't know who he was dealing with. That took place approximately a year and a half ago. He was not scared of Mr. Jewell, rather the threat as he didn't know where it was coming from. He didn't mind spending time with Mr. Jewell while at work. While he and Mr. Oxendine were fishing at Otter Creek, Mr. Jewell happened to be there. Last year he invited Mr. Jewell to go hunting. He explained a situation that occurred recently when the crew was sealing concrete; because of the noise, he threw a roller at a fence to get the employee's attention. He later apologized to the employee because the employee did not know why he threw it. When he explained, the employee stated that he understood what he was doing. Coarse language is not a problem for him; however, being derogatory is different. Mr. Jewell told them numerous times that he does not like Mr. Shane. He did not tell Mr. Jewell that he holds his job in his hands and that he could go to the Human Resources Director and get him fired. He has complained twice about Mr. Jewell to Human Resources. Mr. Jewell was mad at him and Mr. Oxendine for grinding near people. He stated that Mr. Jewell belittles them all the time. He spoke to Mr. Schmitt because something

needed to be done. There have been discrepancies on what Mr. Schmitt tells them compared to Mr. Jewell; he wanted to know who he should listen to. Mr. Jewell tells the employees that he doesn't care what Mr. Schmitt says – he doesn't know anything about construction. The way Mr. Jewell talks to them and treats them intensifies during Art Around the Corner.

Mayor Pike noted that Mr. Prisbrey has approximately five minutes left. He reminded Mr. Prisbrey that he will have the opportunity to cross examine other witnesses if called by City Attorney Shawn Guzman.

Mr. Randall testified that they rarely see Mr. Jewell on a jobsite which is a blessing as things go smoother. Regarding the issue with creating sparks around a child, when grinding, they had shields and everything was coned off. Referring to photo labeled 6A, he cannot see very much since he did not have his glasses. He did not lie when he said there were shields while grinding. The final event in making the decision to report the issues was when the statue was moved using a backhoe rather than the trailer. In his eyes, it was a safety violation. He did not know if there was an encroachment permit and stated that there were no cones.

Mr. Prisbrey had no further questions.

Mayor Pike called for a recess. He reminded the Council not to discuss the case.

Deputy City Attorney advised that the witnesses should not discuss the case either.

The meeting reconvened at approximately 7:05 p.m.

Mayor Pike stated that according to his clock, City Attorney Shawn Guzman has 1 hour and 45 minutes which includes cross examination by Mr. Prisbrey.

City Attorney Shawn Guzman called Bobby Randall. He objected to the photos submitted by Mr. Prisbrey because there are no dates and you cannot determine what they purport to be. He doesn't think there is a foundation for them to be used as evidence.

Mr. Randall testified that he has been employed by the City for 3 1/2 years; prior to that, he worked for Ence Homes pouring concrete, 10 years in management. When supervising employees, he did not use foul language. He objected to Mr. Jewell's foul language when it was used in a demeaning way when speaking to him and observed him speaking that way to other employees. At one point, Mr. Jewell called Curtis Bradshaw stupid. Mr. Jewell was on the jobsite based upon how much he liked the job he was doing, normally it was about 1 1/2 hours a day. It felt differently when Mr. Jewell was on the job site, he explained how. Regarding the Town Square incident, he was present when Mr. Schmitt told the employees to dig 10 inches. He did not like that Mr. Jewell told them to dig less; he told Mr. Jewell that he objected but Mr. Jewell didn't care. Mr. Jewell said that he didn't care how Mr. Schmitt told them to do it; do it the way he said to. Because Mr. Jewell would have gotten upset, as he has done in the past, he did not try to contact Mr. Schmitt.

Mr. Prisbrey objected to City Attorney Shawn Guzman's question regarding whether or not Mr. Jewell would have gotten upset.

Mayor Pike stated that Deputy City Attorney Paula Houston has already explained that this hearing does not follow the rules of evidence.

Deputy City Attorney Paula Houston advised that the Council can apply the information provided in the way they deem appropriate.

Mr. Prisbrey asked that it be noted that City Attorney Shawn Guzman is Deputy City Attorney Paula Houston's boss.

City Attorney Shawn Guzman continued.

Mr. Randall testified about an incident in which Leisure Services Director Kent Perkins overheard Mr. Jewell using the "f" word. One of the reasons he wrote the letter to Human Resources was Mr. Jewell's treatment.

City Attorney Shawn Guzman entered into exhibit the binder he submitted to the Council and Mr. Prisbrey. He continued.

Mr. Randall testified that they could not multi task because Mr. Jewell told them to concentrate on one job at a time. His concern was that they had to wait until being told to start another job. Since Mr. Jewell has left, they are doing 2 or 3 jobs at a time; people are happier and he enjoys going to work. He was concerned with the way the concrete was poured at Town Square for two reasons. One was because of his experience in working with concrete and the other because Mr. Schmitt directed them to do it differently than Mr. Jewell did. He believes Mr. Jewell thought that Mr. Shane and Mr. Schmitt were out to get him. When around Mr. Schmitt, Mr. Jewell showed him respect, but when Mr. Schmitt was not there it was different. Mr. Jewell showed no respect for Mr. Shane. Regarding the incident with the Cremation Gardens at Tonaquint, Mr. Schmitt instructed him and another employee to dig 18 inches and put in mulch; but Mr. Jewell told him to do it differently. They didn't know who to listen to. He was present when the Lincoln statue was moved and was concerned for the safety of the employee walking and holding the statue. Additionally, he was concerned about Mr. Jewell's comments that he could have the statue where it needs to go before they can put it on the trailer. In his experience, because of the way Mr. Jewell speaks to them, employees avoid talking to him; instead they call him or Mr. Oxendine. He added that he would not want to work with Mr. Jewell right now.

City Attorney Shawn Guzman had no further questions.

Mr. Prisbrey questioned Mr. Randall.

Mr. Randall testified that although he was concerned for the employee's safety when moving the statue, he did not immediately call Mr. Schmitt. The final event was that incident and the way Mr. Jewell talked to them.

Mr Prisbrey referred to the photos in Exhibit 6.

City Attorney Shawn Guzman objected to the photos as you cannot determine when they were taken. Additionally, they he does not necessarily agree that they depict what Mr. Prisbrey claims.

Mr. Randall testified that he can see people in the photo and that they have probably performed grinding in that area. Mr. Jewell did not tell him that he took the photo, but told them that while grinding at Town Square, they were throwing sparks in a child's face. When asked about photos 6B, 6C and 6D he stated that he did not know where they were taken. Every once in a while, Mr. Jewell would get in the trenches and help a bit. Mr. Schmitt asked him a while ago how often Mr. Jewell was present. In his letter to Human Resources Director, he wrote that Mr. Jewell was never at the job site, which was a blessing. In his meeting with City Manager Gary Esplin he told him that 50% of Mr. Jewell's work was poor quality. He heard Mr. Jewell say that Mr. Schmitt has no construction knowledge; he's just book smart.

Mr. Prisbrey had no further questions.

City Attorney Shawn Guzman called Cody Schmitt.

Mr. Schmitt testified that he has worked for the City for approximately 6 years, 2 of which he has been the Assistant Parks Manager. That is when he became Mr. Jewell's supervisor. During one of their first meetings, Mr. Jewell asked if he was on their side or his side. He told him that he is on the City of St. George's side. He asked Mr. Jewell who "they" are; Mr. Jewell replied "Larry Shane and Shane Moore". Mr. Jewell told him that Mr. Shane didn't know anything and was incapable of being a parks manager and that Mr. Moore is Mr. Shane's buddy; kissing his ass. They held staff meetings every Wednesday at 8:30. Mr. Jewell always made up excuses to remove himself from the meeting. When he was present, he would barely say anything. When supervisors were asked of their opinions on issues, Mr. Jewell never said anything; he was always texting on his phone or doing something else. Mr. Jewell didn't want to be a team player. When Mr. Jewell responded, he was abrupt and to the point. There was an instance when he went off on a staff member in front of all of the supervisors; they were all taken aback. He discussed the situation with Mr. Jewell either right after or in the near future. Regarding changing the depth at Town Square; Mr. Jewell did not talk to him. After the employees confronted him about the situation, he talked to Mr. Jewell. He would have not been against Mr. Jewell discussing the changes as he has always had an open door policy with all employees. Mr. Jewell frequently expressed an opinion that he didn't think that he and his crew belonged in the Parks Department. He told Mr. Jewell that they are a team and they need to be cohesive. When he first took the position he looked at the job descriptions. Mr. Jewell's job description required him to have a playground safety inspector certification. When he confronted Mr. Jewell about the certification, Mr. Jewell felt there was no relevance for him to do that. Because Mr. Jewell installs playground equipment, he told him that it is very important for the safety and liability of the City of St. George. He stated that he heard about issues that occurred when installing playground equipment at Firehouse Park; however he always told Mr. Jewell that he wanted to start fresh and the past is the past. Getting his playground safety inspector permit was part of Mr. Jewell's performance plan. A short time later, he sent Mr. Jewell a link to the website where the certificate can be obtained. Mr. Jewell received the email but did not act on it until the end of his probationary period. At that time, he confronted Mr. Jewell who said that maybe he shouldn't even be there; he asked if getting the certificate was worth it. The improvement plan was extended one month in which time Mr. Jewell obtained the certificate. Mr. Jewell was placed on a performance improvement plan because he wanted him to succeed. Mr. Jewell's evaluations from 2012 and 2013 stated that Mr. Jewell needs to increase his level of sensitivity and that he needed to understand other's points of view. They also stated that Mr. Jewell needed to increase respect for other supervisors and to stop

questioning everybody's ability in their job role. Additionally, they stated that Mr. Jewell needed to help other supervisors with projects and work orders that relate to the field of work and team attitude needed to increase. After his evaluations, Mr. Jewell improves for a bit and then something happens and he goes backwards. When Mr. Jewell knows he is on an improvement plan, he will do what it takes to get off the plan. He read comments from Mr. Jewell's most recent evaluation pertaining to communication, which was done after Mr. Jewell completed the improvement plan. His goal was to encourage Mr. Jewell to do better. He explained that his recommendation was not to terminate Mr. Jewell, rather that he no longer be a supervisor as he believed Mr. Jewell was not supervisor material. One of the reasons for his recommendation was the way Mr. Jewell treated him during Art Around the Corner while installing the statue with the artist present. He explained that Mr. Jewell talked to him in a demeaning manner as he has done with his employees. After reading the letters that Mr. Randall and Mr. Oxendine wrote to Human Resources, he gave Mr. Jewell an opportunity to explain the situation. Mr. Jewell responded by saying that he never said Mr. Schmitt didn't know what he was talking about. A few days later Mr. Jewell stated that he may have said that. It is still his opinion that Mr. Jewell cannot be a supervisor.

City Attorney Shawn Guzman had no further questions.

Mr. Prisbrey cross examined Mr. Schmitt.

Mr. Schmitt testified that evaluations are used to let employees know what areas they can improve in. He explained that employees are concerned with the number they are given on their evaluation; Mr. Jewell was upset with the number he was given. Evaluations have objective criteria to grade employees. Mr. Jewell's most recent evaluation stated that he had improved from the prior year and that he was barely proficient.

Because Mr. Schmitt did not know what the rating scale indicated on evaluations, Mayor Pike asked that someone clarify.

City Attorney Shawn Guzman stated that Human Resources Director Judith Mayfield can explain that when she is called.

Mr. Prisbrey continued.

Mr. Schmitt testified that Mr. Jewell's actions would fluctuate, that is why he was rated barely proficient. He could have rated him lower, but he wanted Mr. Jewell to know that he was happy that he obtained the required certificate. Since that evaluation, issues that arose are the things that he, Mr. Oxendine and Mr. Randall testified to. He does not know what everyone else talked about during their meetings; however, his recommendations were specific and based upon the way Mr. Jewell treated him, his employees, the lack of participation of teamwork as a supervisor in staff meetings. It had nothing to do with the playground safety inspector permit. Mr. Jewell never told him that he had photographs; he always told him that he had stuff and can nail anybody. He explained that he did not include that in any of the information provided to his supervisors because he did not feel it was viable.

Mr. Prisbrey had no further questions.



City Attorney Shawn Guzman called Leisure Services Director Kent Perkins; however, because he was not present in the room, therefore, he called Human Resources Director Judith Mayfield.

Human Resources Director Judith Mayfield testified that she has been in her position approximately 10 years and has been in the Human Resources field for over 40. She explained the 1-5 scale on evaluations; 1 is the lowest and 5 the highest. Evaluations are kept in the employee's personnel files in Human Resources; she is the custodian of the records. The evaluations included in the binder are Mr. Jewell's prior performance evaluations. She explained that with the 2010 evaluation, Mr. Jewell was very upset about the rating. Although she did not recall who contacted her, they held a meeting to discuss the evaluation. Mr. Jewell was very defensive and abrupt when Mr. Shane tried to explain. She asked Mr. Jewell to stay after the meeting at which time she told him that if he does not change his behavior, he is in jeopardy of losing his job. She explained that an employee improvement plan typically lasts 6 months and tries to help the employee become successful. Mr. Jewell's plan was extended to give him the opportunity to obtain the playground safety certification. She believes the plan modified Mr. Jewell behavior for a time; however, his behavior reverted back. After meeting with several staff members, Leisure Services Kent Perkins recommended Mr. Jewell be terminated; she concurred because over the past 10 years, she had several discussions with Mr. Jewell regarding his behavior towards other employees. To her, it seemed like they were going back to the same behavior of Mr. Jewell treating his employees in an unprofessional, disrespectful and unproductive manner. She, Mr. Perkins and Mr. Jewell met for a predetermination meeting. Mr. Perkins was in control of the meeting; Mr. Jewell was emotional and felt as though things were blown out of proportion and that people were out to get him. He made a very emotional appeal to Kent. Mr. Jewell focused on the fact that he had worked for the City for 23 1/2 years and that he only had 2 1/2 more years until he could buy out his years and have full retirement. At one time, Mr. Perkins asked him if he was giving 100%; to her recollection, Mr. Jewell said no, not since the reorganization because he did not agree with it. After Mr. Jewell's comments, it was still her recommendation to terminate him. A few days later, she and Mr. Perkins met with Mr. Jewell at the Parks building. At that time, they told him that they were making the recommendation to the City Manager. Mr. Jewell was also told that if he wanted to appeal to recommendation to the City Manager, he needed to call the City Recorder, which he did. She was present at the meeting with the City Manager. Again, Mr. Jewell mentioned that he worked at the City for 23 1/2 years and how he saved the City a lot of money. Mr. Jewell commented that he did not give 100% over the past year and that he is not cut out to be a supervisor. Additionally, he stated that he could not go back to the Parks Department because of what had occurred over the past few days.

City Attorney Shawn Guzman had no further questions.

Mr. Prisbrey cross examined Ms. Mayfield.

Ms. Mayfield testified that Mr. Jewell told her there were issues between him and Mr. Shane. She did not recall employees coming to her stating that they had issues with Mr. Shane. The issue Mr. Jewell had was that he was not happy when Mr. Shane was given the position during the reorganization. He did not agree with Mr. Shane's management style and didn't feel Mr. Shane had the experience.

Mr. Prisbrey asked for a moment to speak to his client. He then continued.

Ms. Mayfield testified that Mr. Randall and Mr. Oxendine came to her approximately 2 1/2 years ago regarding the way Mr. Jewell talked to them and the way Mr. Jewell acting when he was present. Someone talked to Mr. Jewell, she cannot recall who; however, she believes there was some improvement. There was no performance plan implemented at that time. As the Human Resources Director, her job is to be involved if there is a problem with an employee.

Mr. Prisbrey had no further questions.

City Attorney Shawn Guzman had additional questions.

Ms. Mayfield testified that after the appeal meeting with City Manager Gary Esplin, it was still her recommendation to terminate Mr. Jewell. She felt as though City Manager Gary Esplin was very understanding of the years of service that Mr. Jewell gave to the City and appreciative of the fact that he was so close to being able to buy out his retirement years. In her opinion, City Manager Gary Esplin's decision to allow Mr. Jewell to continue his employment in a non-supervisory position and in another department was very generous. After the City Manager sent the offer to Mr. Jewell, she met with him on a Saturday at the Parks building because he wanted to pick up his personal belongings. At that time, Mr. Jewell asked for additional time to make a decision. City Manager Gary Esplin's response was to give him as much time as he needed. When she talked with Mr. Jewell the following Monday, he asked about getting paid out his accrued PTO, comp time and sick hours. She told him that he needed to speak with Heather Dutton, who processes the payroll, which he did Tuesday morning. When he met with Ms. Dutton, he told her that he wanted to be paid out his accrued time. Because of his request, it is her opinion is that Mr. Jewell resigned his position with the City. When asked to turn to page 46 of the City's exhibit, she stated that although the document (dated 2001) is before her employment with the City, it is a performance improvement plan for Mr. Jewell. She read number 3.

City Attorney Shawn Guzman had no further questions.

Mr. Prisbrey had additional questions

Ms. Mayfield read portions of the letter sent to Mr. Jewell on April 23, 2014. She testified that initially Mr. Jewell was a day, but was then granted an additional weekend. If he did not choose to accept the position offered, he was considered to have resigned his position with the City.

Mr. Prisbrey had no further questions.

City Attorney Shawn Guzman called City Manager Gary Esplin.

City Manager Gary Esplin testified that at the appeal hearing, he asked Mr. Jewell if he was able to function as a supervisor. Mr. Jewell didn't think he could, he is too old school and could not accommodate the new programs and could probably not be a supervisor. Mr. Jewell also felt he could not go back to Parks in that organization. Mr. Jewell commented that he has not given 100% since the reorganization as he did not agree with it. At the meeting, Mr. Jewell's years of service were discussed. When making his decision, Mr. Esplin said he looked the years of service Mr. Jewell gave to the City. He felt Mr. Jewell could probably be successful in a non-supervisory position with the City if he took it seriously and wanted to complete his years to get to

retirement as he mentioned in the meeting. He thought this would be an opportunity for Mr. Jewell to continue employment with the City in a setting that would not be confrontational, using his skills to help a department. He told other departments to freeze hiring to see if there was an opportunity to employ Mr. Jewell. He stated that these types of decisions are the most difficult part of his job. Based upon Mr. Jewell's appeal to him, he modified the original decision that he made concurring with termination. He told Ms. Mayfield to give Mr. Jewell as much time as he needed to make his decision.

City Attorney Shawn Guzman had no further questions.

Mr. Prisbrey had no questions.

City Attorney Shawn Guzman called Leisure Services Director Kent Perkins.

Leisure Services Director Kent Perkins testified that he has worked for the City nearly 33 years. There have been concerns with Mr. Jewell's treatment of employees in the past. Referring to page 46 of the City's exhibit, he stated that it was a performance improvement plan that former supervisor Douglas Wulfenstein put Mr. Jewell on. Referring to page 23 of the same exhibit, he stated that it was a memorandum from Mr. Wulfenstein dated April 23, 1993. He read portions relating to Mr. Jewell's communication skills. Referring to page 25 of the same exhibit, he stated that it was a memorandum from former supervisor Terry Schramm dated June 3, 1994. He read portions regarding Mr. Jewell's attitude towards his work and employees. He recalled having conversations with Mr. Wulfenstein as well as other employees regarding problems with Mr. Jewell's interaction with other employees. A predetermination meeting was held regarding his contemplated recommendation of Mr. Jewell's termination. He and Human Resources Director Judith Mayfield explained to Mr. Jewell why they were there and what they wanted to talk about. Ms. Mayfield made clear that the opportunity was to share anything that would shed light on the concerns brought forth. At this meeting, Mr. Perkins stated that he referred to the bottom of the performance improvement plan which indicated that if Mr. Jewell did not abide by the tenets of the plan or fell back into not making improvement, there were grounds for additional discipline, including termination. During the meeting, he talked a lot about Mr. Jewell's treatment of the people he worked with. Mr. Jewell indicated that he was old school and that his style was straight forward. Ms. Mayfield made it clear that Mr. Jewell's language and treatment is not acceptable. Mr. Jewell commented that he knew; he said that was who he was, he gets in trouble if he says something or not. Additionally, Mr. Jewell stated that he had given 100% in the beginning, but not the last couple of years. In his opinion, Mr. Schmitt made an effort to work with Mr. Jewell to improve his performance; in fact, Mr. Schmitt asked if he could give Mr. Jewell additional time to obtain the playground safety certification. He discussed that with Mr. Jewell at the predetermination meeting also. Mr. Jewell did receive the certification; Mr. Perkins remembered sending an email to congratulate him. He believes Mr. Jewell has a lot of good talent and skills, but does not believe he is a supervisor. He wanted to see if there was another position Mr. Jewell can be demoted to and make it work. There was no place for Mr. Jewell to go as there were no open positions. Because of Mr. Jewell's comments of not giving 100% over the last couple of years, he felt that Mr. Jewell did not care anymore; therefore, he went forward with the recommendation for termination to the City Manager.

City Attorney Shawn Guzman had no further questions.

Mr. Prisbrey had no questions.

Mayor Pike called for a 5 minute recess, at which time each attorney will have 5 minutes for a closing statement.

The meeting reconvened.

Mayor Pike suggested giving each attorney five minutes for a closing statement. After the closing statements, the Council will deliberate in the Administrative Conference Room for up to 30 minutes.

Mr. Prisbrey asked if he has the opportunity to present additional evidence.

Mayor Pike stated that the Council has already given him time. He explained that he will have 5 minutes for a closing statement.

City Attorney Shawn Guzman stated that the City was prepared to call additional witnesses, but with the time constraints, they were not able to.

Mr Prisbrey asked if he could offer proof as to what a witness would testify as opposed to closing statement.

Deputy City Attorney Paula Houston explained that they have done that in other cases where the sides will proffer evidence, but typically that is when both sides agree that they are willing to proffer. She explained the process.

Mayor Pike commented that should have been during the allotted time.

Deputy City Attorney Paula Houston stated that it is evidentiary, so it would have been in the original hour plus what was given.

City Attorney Shawn Guzman stated that he would object as it is additional time. If they proffer evidence now, it could take all night.

Mayor Pike stated that the Council will not allow that unless they feel otherwise.

Mr. Prisbrey submitted.

Deputy City Attorney Paula Houston explained that in court this typically happens if counsel does not feel it is necessary to argue. The Council can make their own decisions.

City Attorney Shawn Guzman presented his closing statement. Referring to policy 4.50, Discipline and Employee Appeal, it outlines what behaviors can lead to disciplinary action. Performance evaluations are evidence showing there has been a continual problem with Mr. Jewell as far as interaction and mistreatment of fellow employees. Mr. Schmitt attempted to work with Mr. Jewell and most importantly, the City Manager offered him another position within the City rather than termination as was recommended, acknowledging his work with the City. The Council has to weigh the evidence and then say if they concur with the demotion or do they place him back in his position as a supervisor in the Parks Department.

Mr Prisbrey asked to rebut.

Mayor Pike replied no.

Mr. Prisbrey stated that traditionally, that is what happens, but he understood.

Deputy City Attorney Paula Houston explained that traditionally in a court you would reserve the right to rebut when you submit, but Mr. Prisbrey did not.

Mayor Pike asked if the Council had any questions. He recommended they adjourn to the conference room for deliberations. He told the Council to take all of their information including the ballot.

Mr. Prisbrey asked what the ballot was.

Mayor Pike explained what the ballot simply indicates whether each Councilmember affirms or reverses the City Manager's decision. He mentioned that it is part of the record.

Mr. Prisbrey asked if the ballots would be submitted to the court.

Mayor Pike stated that they will be given to him.

The Council left Council Chambers to deliberate in the Administrative Conference Room. They returned after deliberating.

Mayor Pike stated that as required in City policy, each Councilmember filled out a ballot. He read the ballots as follows:

Councilmember Randall – affirm the City Manager's decision  
Councilmember Arial – affirm the City Manager's decision  
Councilmember Bowcutt – affirm the City Manager's decision  
Councilmember Hughes – affirm the City Manager's decision

The vote was unanimous and the decision was upheld.

Mr. Prisbrey stated that the policy says the decision is final; however, statute says the court of appeals. He asked if the City has a position.

Deputy City Attorney Paula Houston explained that she will have to look at the ordinance. She thought it also says court of appeals.

**ADJOURN:**

**MOTION:** A motion was made by Councilmember Bowcutt to adjourn from the meeting.

**SECOND:** The motion was seconded by Councilmember Arial.

**VOTE:** Mayor Pike called for a vote, as follows:

Councilmember Hughes – aye  
Councilmember Randall – aye  
Councilmember Bowcutt – aye  
Councilmember Arial – aye

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The vote was unanimous and the motion carried.

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Christina Fernandez, City Recorder